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TO:	FROM:	
Examiner Rachna Singh	Eustace P. Isidore, Reg. No. 56,104	
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

ATTORNEY DOCKET NO.: AT9-99-367

In re Application of:
VIKTORS BERSTIS

Serial No.: 09/406,435

Filed: SEPTEMBER 27, 1999

For: METHOD, SYSTEM AND
COMPUTER PROGRAM PRODUCT
FOR KEEPING FILES CURRENT§
§ Examiner: SINGH, RACHNA
§
§ Art Unit: 2176
§
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§
§
§REPLY BRIEFCommissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Reply Brief is submitted in answer to the Response to Argument set forth in the Examiner's Answer mailed December 23, 2005. No fee is believed to be required; however, in the event any fees are required, please charge IBM Corporation's Deposit Account No. 09-0447. No extension of time is believed to be required; however, in the event any extension is required, please consider that extension requested and please charge any associated fee and any additional required fees IBM Corporation's Deposit Account No. 09-0447.

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February 23, 2006
Date

Eustace P. Isidore

ARGUMENTS

This Reply Brief is submitted in response to Examiner's Answer filed on December 23, 2005. In the Response to Argument section of the Answer, Examiner offers rebuttal arguments to several of Appellant's proffered arguments in Appellant's Appeal Brief (filed October 5, 2005). Examiner's rebuttal arguments are directed to specific claims and features within those claims. To provide consistency in the present responses, Appellant addresses each of Examiner's rebuttals arguments in the order in which the arguments are presented in the Answer, each delineated by a sub-heading identifying the corresponding claims.

Claims 1, 12, and 23

In supporting the position that *Ball* teaches the source identifier that is stored along with the downloaded file at the client, Examiner states that "[a] file downloaded from an network location must have a source identifier...URL" (emphasis specifically added by Examiner). Examiner's use of and reliance on this very strong assertion ("must have") is however not supported by *Ball* and is factually untrue. Files downloaded from a network and stored to a client system do not typically/always have a source identifier (or URL) that is stored along with the filename. It is this very fact that leads Appellant to (1) first evaluate whether there is a source identifier (Claim 1, first element) and then (2) also account for the stored file not having a source identifier by attaching that source identifier at a later time (see Claim 2, for example).

It also appears from Examiner's reliance on *Ball's* statement that "all pages have unique names" that Examiner may be confusing/interchanging the "file name" with the "source identifier", where both terms represent different elements within Appellant's claims.

Examiner further mischaracterizes and/or attempts to expand beyond the clear teaching of *Ball* with respect to the storing of changes at an external service (which Examiner tacitly admits is separate from the "source" of the file). Appellant's claims enable an update of the stored/downloaded file with a newer version **directly from** the source from which the file was originally downloaded, with no intermediary "external service" to store just the updates and the other indirect and distinguishable methods described by *Ball*. *Ball* clearly does not provide this direct download to the client of a new version of the file and only describes the indirect (external service) method.

Claims 2, 13, and 24

Having previously states that every downloaded file **must** have a source identifier, Examiner now states that *Ball* “**could attach** a source identifier to that page based on information from the list of pages” (emphasis added), clearly contradicting his previous assertion. Examiner is clearly attributing to *Ball* features which are neither taught nor suggested by *Ball*. The §102 rejection of the claims requires a clear teaching in the reference and not a description of what the reference “**could**” do.

Claims 3, 14, and 25

Examiner does not point to a specific teaching in *Ball* to support the §102 rejection of the features of these claims. Examiner again relies on inference and conjecture as to what would be possible given *Ball*’s limited teaching with respect to providing “a current version of the document as **archived**” (emphasis added), which is inherently distinct from Appellant’s providing a new version of the document by downloading the new version when the filename is selected for opening on the client.

Claims 4, 15, and 26

Examiner mischaracterizes components of Appellant’s inventive subject matter as prior art. Page 11, lines 22-34 of the specification falls within Appellant’s “Description of The Illustrative Embodiments” and describes features of Appellant’s invention. Contrary to Examiner’s mis-interpretation or mischaracterization, the referenced section describes adding the source identifier within the additional room that is available in the file’s extended attributes. When read in the proper context, one finds that Appellant’s statement that the “source identifier **may be stored** as an extended attribute...” is describing a feature of the invention and NOT prior art (*see* preceding lines 14-21).

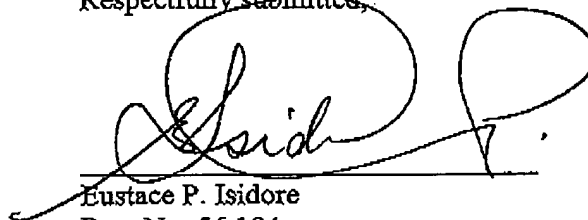
Claims 7, 18, and 29

With respect to these Claims, Appellant would incorporate herein the many reasons provided in the Appeal Brief why Examiner’s analysis of the present rejections is not valid. Notably, in the Response to Arguments, Examiner again fails to address the fact that, as provided by *Smith*, the client side computer receives and processes the heartbeat signal to select “**in real time** a stale or real-time identifier ... for the formatted real-time financial data based upon the system identifier of the real-time financial data and the heartbeat signal.” (id. at line 53-59). In contrast, Appellant’s claims specifically provide for a user to decide which version of the file the user wishes to display.

CONCLUSION

Appellant has again pointed out with specificity the manifest error in the Examiner's rejections, and the claim language that renders the invention patentable over the combination of references. Appellant, therefore, again respectfully requests that this case be remanded to the Examiner with instructions to issue a Notice of Allowance for all pending claims.

Respectfully submitted,



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